

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

Criminal Action No. No. 15-CR-4268-JB

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANGEL DELEON, et al

Defendants.

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**MOTION TO COMPEL THE GOVERNMENT TO REVEAL THE IDENTITY OF  
CERTAIN CONFIDENTIAL INFORMANTS REFERENCED IN DISCOVERY  
MATERIALS**

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Defendants Joe Gallegos, Edward Troup, Billy Garcia, Allen Patterson, Christopher Chavez move pursuant to Fed R. Crim. P. 12(b)(1), *Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972); and *Roviaro v. United States*, 353 U.S. 53 (1957), to compel the government to immediately reveal the identities of certain confidential informants referenced in the discovery materials. The government opposes this motion. All other defendants have no objection to the motion.

1. The defense incorporates by reference the legal standards as set forth in the prior motion for disclosure of confidential informants (Doc. # 869). This motion is filed as a joint motion to assist the Court and government in focusing on informants that relate solely to counts 1 and 2. Not each defendant who have joined this motion necessarily has

grounds for disclosure but for each informant listed below one or more of the defendants filing this motion has sufficient grounds for disclosure.

2. **Informant at Deleon 27899**- On April 10, 2001, FBI Task Force Officer Edgar Rosa met with Mr. Jim Moore, Coordinator, Security Threat Group (STG) at the Southern New Mexico Correctional Facility (SNMCF). Mr. Moore indicated he had interviewed an unidentified source who indicated the murders of Castillo and Garza were ordered by Angel Munoz (Deleon discovery page 27899). This information is helpful and exculpatory as Angel Munoz was not in custody and it disputes the government's theory that the order to kill was brought down from PNM North by Billy Garcia.

3. **Informant at Deleon 19127** - Discovery discloses that New Mexico corrections had developed a source given the moniker of "Source 12." This source stated that the old time convicts would put holes in you and the youngsters would strangle you." (Deleon discovery pg. 19127). The report in discovery indicates that the "dates of interviews and staff conducting the interview" are contained within a document titled, "Memorandum from STG to Warden Tafoya titled- Confidential sources on the Murders of Inmates Frank Castillo and Rolando Garza." This memorandum has been lost or destroyed and has not been produced in discovery. Billy Garcia has been identified as a member of the old timers whereas inmates Leroy Lucero, Federico Munoz and other alternate suspects were part of the younger set called the "All Stars." This source is exculpatory and helpful in that he described the modus operandi of two different factions of the SNM. The discovery reflects that the strangulation method, used in the murders of Castillo and Garza, was first developed by All Star leader Federico Munoz in combination with his compatriot Leonard Lujan in the 1998 strangulation murder of an inmate. Simply

stated, the modus operandi used in the killing of Garza and Castillo was the signature method used by the All Star group of the SNM, a group to which there is no evidence Billy Garcia belonged.

4. **Deleon discovery page 14210** - On April 12, 2001 Warden Lawrence Tafoya interviewed a confidential informant who was given the moniker of "Source 1." This unidentified informant stated that he was a very good friend of inmate Rolando "Looney" Garza. He stated that he grew up with inmate Garza on the streets of Albuquerque. This informant reviewed a photo array and identified Allen Patterson, Ray Molina and Eugene Martinez as the killers of Garza. This inmate indicated he was in the pod when the Garza was murdered. (Deleon discovery page 14210). This informant provides clear exculpatory information for defendant Christopher Chavez as an eyewitness indicates it was Molina and not Chavez who participated in the murder. The witness is exculpatory as to all count 1 and 2 defendants as it contradicts the testimony of Lujan. It is also helpful as Ray Molina is a member of the All Star group of the SNM.

5. **Informant at Deleon 19126** - On July 11, 2001 an informant was interviewed who was given the moniker of "Source 07." Source 7 stated that inmate Alfred Giron (a leader of the SNM) had put a red light on all hits while he was here at SNMCF. When Inmate Giron left, Inmate Leroy Lucero, took over leadership at SNMCF and he honored the red light put on the hits. Source 7 was interviewed again and this interview was taped.<sup>1</sup> (Deleon discovery at page 19126). This information is exculpatory as to Billy Garcia as the informant indicates it was Lucero and not Garcia who ordered the hits. It also appears

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<sup>1</sup> A review of discovery does not reveal the tape interview of Source 7 was preserved.

from discovery that Leroy Lucero is now a cooperating individual for the government and is likely to testify.

6. **Informant at Deleon 521** - On June 4, 2004 a confidential source who was given the moniker of "DFS #3" provided information to law enforcement. DFS #3 stated informant who stated that he was housed in K-2-Yellow unit at SNMCF at the time the double homicide occurred. DFS #3 stated that three-four days prior to the killings "Smurf" Leroy Lucero #40700 was telling inmates on the compound that they better get ready because the SNM was going to clean house. This informant is exculpatory as to Garcia as this information is consistent with Lucero, rather than Garcia, giving the order to kill and he is exculpatory as to all defendants as he disputes Lujan.

7. **Informant at Deleon 19128** – On an unknown date in 2001 Warden Lawrence Tafoya interviewed a confidential informant who was given the moniker of "Source 13." Source 13 states that he overheard Inmate Eugene Martinez talking with Inmates Leroy Lucero and Jessie Ibarra about carrying out assaults on inmates considered to be rats. Source 13 indicated he heard these statements before the murders took place. Leroy Lucero is believed to be a cooperating witness for the government and is a prime alternate suspect in the murders. Eugene Martinez is a former codefendant who is also now a cooperating witness. This informant would impeach both Lucero and Martinez and would identify Ibarra as an alternate suspect. This evidence is helpful and exculpatory to Allen Patterson, Christopher Chavez and Billy Garcia.

8. **Informant at Deleon 1222** – On June 16, 2004 a confidential source was interviewed who stated he was good friends with Leroy Lucero as they grew up together as kids. This informant stated that inmate Garza had a rat jacket on him and when inmate

Lucero was around inmate Garza that inmate Lucero was really nervous around him, as if inmate Lucero wanted to take out Garza himself. This informant supports the alternate theory that it was Leroy Lucero who ordered the hit on Garza and not Billy Garcia.

9. **Informant at Deleon 1249** - This informant was interviewed between March 28, 2001 and April 3, 2001. This informant stated that two inmates, both SNM members, were assigned to hit/kill Inmate Rolando Garza. Source stated that Inmate Billy Garcia gave the okay to hit/kill Inmate Garza and that this okay was given to SNM inmate Ray Molina #52563 who in turn assigned or told Gerald Alvarado and Deleon to hit/kill Garza. This informant provides exculpatory information for defendants Patterson and Chavez as he indicates they were not involved in the murder of Garza. This informant is helpful to all count 1 and 2 defendants as he impeaches the story of Lujan and Eugene Martinez.

10. **Informant at Deleon 1251** - On April 9, 2001 an informant who was given the moniker of "Source 1-B" was interviewed. Source 1-B stated that he met with inmate Billy Garcia when he was released from orientation and discussed SNM business with him. He further stated that during one of these meetings, inmate Leonard Lujan was present and was insistent that Billy Garcia give the "green light, to start cleaning house on inmates that they had paperwork on. Source 1-B stated that inmate Lujan was insistent on the need to "clean house" and ultimately got the green light" from Billy Garcia on the evening before the murders took place. This informant is exculpatory to all count 1 and 2 defendants except for Billy Garcia as he contradicts Lujan's contention that he only participated in passing on the order out of fear of being killed.

11. **Informant at Deleon 1257** - This informant was interviewed on an unknown date in 2001. This informant indicated that the order to kill Frank Castillo was on since

2000 and SNM members at SNMCF knew about it at that time. This contradicts the government's theory that the hit was brought down to SNMCF by Billy Garcia in March 2001.

12. **Informant at Deleon 3032** – This unidentified informant was interviewed on April 3, 2001. This informant stated that there would be additional killings at the the SNMCF. This informant stated that inmate Billy Garcia had a green light. This meant that Billy Garcia was to be killed. This informant would establish that Billy Garcia was not part of a plan to kill inmates but was rather a target of the group who was orchestrating the murders at SNMCF in the spring of 2001.

13. **Informant at Deleon 18971** – On March 7, 2001, 19 days before the Garza and Castillo murders, an informant was interviewed by a corrections officer. This informant had provided accurate information previously. The informant stated that Inmate Leonard Lujan had put a hit out on Inmate Jimmy Gordon anywhere he was moved out too. The informant stated, that Gordon owed Lujan \$500.00 dollars and that it was too much to just let go. This informant came forward with this information prior to Billy Garcia ever arriving at SNMCF. This informant provides evidence that Lujan was capable, in 2001, of issuing a green light on inmates himself and without direction from anyone else. This informant also provides evidence that contradicts Lujan's statement to authorities that he is not a violent person.

Submitted this 15th day of September 2017.

/s/ Jim Castle

Robert Cooper

Jim Castle

Attorneys for Billy Garcia (5)

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2017, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to counsel of record.

/s/ Jim Castle